

IN UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

-----2016 APR 29 AM 11:00

GALE RACHUY,

Petitioner-Appellant,

vs.

UNITED STATES OF AMERICA,

Respondent-Appellee.

File No. 15-cv-235-wmc

10-cr-141-wmc

**NOTICE OF APPEAL TO THE SEVENTH
CIRCUIT COURT OF APPEALS**

PLEASE TAKE NOTICE that the undersigned Appellant hereby appeals the April 15, 2016, dated Judgment Denying Postconviction Relief, to the United States Court of Appeals for the Seventh Circuit.

The Appeal in part will raise issues of constitutional magnitude, which was violated or ignored by the district court, including, but not limited to:

1. The district court was without jurisdiction over this matter consistent with **United States v. Tingle**, 183 F.3d 719 (1999).

2. The district court unconstitutionally utilized uncounseled guilty plea of state convictions to calculate the base level offense, contrary to the language of **United States v. Tucker**, 404 U.S. 443, 449, 92 S.Ct. 589 (1972), and **Scott v. Illinois**, 440 U.S. 367, 374 (1979).

3. The United States Attorney, knowingly used the perjured testimony before the Grand Jury of witnesses **Arelle Pickar-Butler** and Superior, Wisconsin Detective Michael J. Jaszczak to obtain the tainted indictment in violation of the United States Constitution.

4. The district court violated Appellant Rachuy's clearly established Constitutional right when it refused to Order or direct Rachuy's former Attorney Joseph L. Sommers, to give to Rachuy his file that Sommer's used for the pre-trial and sentencing so that Rachuy could verify whether or not documents that the United States claims to have disclosed to Sommers, which Sommers told Rachuy that he'd not received any further discovery of statements of Bank of America Employee witnesses, nor documents of Rachuy's accounts at Bank of America, which the United States claims was disclosed and was exculpatory, which Appellant Rachuy advised the district court in March and May 2015, that he needed these files to prove his claims -- and further requested 45-days from the date Rachuy received the files to file his Memorandum of Law. The district court ignored the language of **Socha v. Boughton**, 763 F.3d 674, 679 (7th Cir. Chief Judge D. Wood, 2015, which language in reference to Attorney Joseph Sommers stated:

"[A]ll of this is to say that ... without his file, Socha had no hope of having a plausible argument on ground."

Id. at 679.

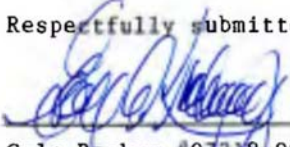
Clearly, the district court holds Rachuy to a higher standard than **Socha**. It should be noted that Rachuy has filed with this Court a Petition

For Writ of Mandamus, which requests that this Court compel the district court to Order Former Attorney Joseph L. Sommers, and the United States to give Rachuy the files. Where Rachuy is required to prove the allegations of the exculpatory evidence had not been disclosed to counsel by the United States, it would seem reasonable that Rachuy receive the file, otherwise the district court is holding Rachuy to an impossible burden to meet, which denies Due Process of Law.

For all of these reasons and others, Rachuy respectfully files this
Notice of Appeal.

Dated: April 25, 2016.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Gale Rachuy", is written over a horizontal line.

Gale Rachuy #07218-090
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Appellant Pro se

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"The degree of civilization in a society can be judged by entering its prisons."

April 25, 2016

Office of the Clerk
United States District Court
120 North Henry Street
Madison, WI 53703

RE: Rachuy v. United States of America,
File No. 15-cv-235-wmc and 10-cr-141-wmc

Dear Clerk:

Enclosed herewith please find the Notice of Appeal in the foregoing case file. I have also served a copy of the same upon the United States Attorney's Office. Please file this in your usual manner.

Thanking you in advance.

Respectfully,


Gale A. Rachuy

Enclosure

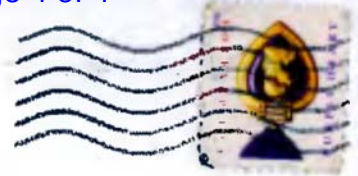
c: w/enc: AUSA Grant C. Johnson

REC'D/FILED
2016 APR 29 AM 11:07
PETER OBER
CLERK, U.S. DISTRICT COURT
W.D. WI

Inmate Name Gale A. Kacny
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⇌07218-090⇌
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